

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**RUSSEL FORSTER**  
**a.k.a. RUSSEL FREDERICK FORSTER**  
**1832 Eddy Street**  
**San Francisco, CA 94115**

**Registered Nurse License No. 708351**

Respondent

Case No. 2012-673

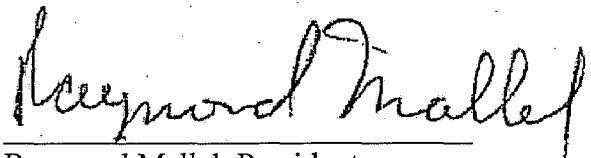
OAH No. 2012051038

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 14, 2012.

IT IS SO ORDERED October 15, 2012.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 CHAR SACHSON  
Deputy Attorney General  
4 State Bar No. 161032  
455 Golden Gate Avenue, Suite 11000  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **RUSSEL FORSTER, A.K.A. RUSSEL**  
12 **FREDERICK FORSTER**  
13 **1832 Eddy Street**  
**San Francisco CA 94115**

14 **Registered Nurse License No. 708351**

15 Respondent.

Case No. 2012-673

OAH No. 2012051038

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
17 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer  
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
19 which will be submitted to the Board for approval and adoption as the final disposition of the  
20 Accusation.

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the  
23 Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
25 Char Sachson, Deputy Attorney General.

26 2. Respondent Russel Forster, a.k.a. Russel Frederick Forster (Respondent) is  
27 represented in this proceeding by attorney Kathleen McCormac, whose address is: 655  
28

1 Montgomery Street, Suite 1200, San Francisco, CA 94111.

2 3. On or about July 23, 2007, the Board of Registered Nursing issued Registered Nurse  
3 License No. 708351 to Russel Forster, a.k.a. Russel Frederick Forster (Respondent). The  
4 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
5 in Accusation No. 2012-673 and will expire on February 28, 2013, unless renewed.

6 JURISDICTION

7 4. Accusation No. 2012-673 was filed before the Board of Registered Nursing (Board),  
8 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
9 and all other statutorily required documents were properly served on Respondent on May 1, 2012.  
10 Respondent timely filed his Notice of Defense contesting the Accusation.

11 5. A copy of Accusation No. 2012-673 is attached as exhibit A and incorporated herein  
12 by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, fully discussed with counsel, and understands the  
15 charges and allegations in Accusation No. 2012-673. Respondent has also carefully read, fully  
16 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
17 Order.

18 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
20 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
21 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
22 the attendance of witnesses and the production of documents; the right to reconsideration and  
23 court review of an adverse decision; and all other rights accorded by the California  
24 Administrative Procedure Act and other applicable laws.

25 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
26 every right set forth above.

27 ///

28 ///

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 2012-673.

4 10. Respondent agrees that his Registered Nurse License is subject to discipline and he  
5 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CIRCUMSTANCES IN MITIGATION

7 11. Respondent Russel Forster, a.k.a. Russel Frederick Forster has never been the subject  
8 of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

9 CONTINGENCY

10 12. This stipulation shall be subject to approval by the Board of Registered Nursing.  
11 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
12 Registered Nursing may communicate directly with the Board regarding this stipulation and  
13 settlement, without notice to or participation by Respondent or his counsel. By signing the  
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
18 action between the parties, and the Board shall not be disqualified from further action by having  
19 considered this matter.

20 13. The parties understand and agree that facsimile copies of this Stipulated Settlement  
21 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
22 effect as the originals.

23 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
26 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
27 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
28 writing executed by an authorized representative of each of the parties.



1           **4.     Residency, Practice, or Licensure Outside of State.** Periods of residency or  
2 practice as a registered nurse outside of California shall not apply toward a reduction of this  
3 probation time period. Respondent's probation is tolled, if and when he resides outside of  
4 California. Respondent must provide written notice to the Board within 15 days of any change of  
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
6 returning to practice in this state.

7           Respondent shall provide a list of all states and territories where he has ever been licensed  
8 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
9 information regarding the status of each license and any changes in such license status during the  
10 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
11 license during the term of probation.

12           **5.     Submit Written Reports.** Respondent, during the period of probation, shall submit  
13 or cause to be submitted such written reports/declarations and verification of actions under  
14 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
15 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
16 Respondent shall immediately execute all release of information forms as may be required by the  
17 Board or its representatives.

18           Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
19 state and territory in which he has a registered nurse license.

20           **6.     Function as a Registered Nurse.** Respondent, during the period of probation, shall  
21 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
22 6 consecutive months or as determined by the Board.

23           For purposes of compliance with the section, "engage in the practice of registered nursing"  
24 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
25 non-direct patient care position that requires licensure as a registered nurse.

26           The Board may require that advanced practice nurses engage in advanced practice nursing  
27 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

28           If Respondent has not complied with this condition during the probationary term, and

1 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
2 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
3 extension of Respondent's probation period up to one year without further hearing in order to  
4 comply with this condition. During the one year extension, all original conditions of probation  
5 shall apply.

6       **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
7 prior approval from the Board before commencing or continuing any employment, paid or  
8 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
9 performance evaluations and other employment related reports as a registered nurse upon request  
10 of the Board.

11       Respondent shall provide a copy of this Decision to his employer and immediate  
12 supervisors prior to commencement of any nursing or other health care related employment.

13       In addition to the above, Respondent shall notify the Board in writing within seventy-two  
14 (72) hours after he obtains any nursing or other health care related employment. Respondent  
15 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
16 regardless of cause, from any nursing, or other health care related employment with a full  
17 explanation of the circumstances surrounding the termination or separation.

18       **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
19 Respondent's level of supervision and/or collaboration before commencing or continuing any  
20 employment as a registered nurse, or education and training that includes patient care.

21       Respondent shall practice only under the direct supervision of a registered nurse in good  
22 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
23 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
24 approved.

25       Respondent's level of supervision and/or collaboration may include, but is not limited to the  
26 following:

27       (a) Maximum - The individual providing supervision and/or collaboration is present in  
28 the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
2 care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
4 person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health care  
6 setting, the individual providing supervision and/or collaboration shall have person-to-person  
7 communication with Respondent as required by the Board each work day. Respondent shall  
8 maintain telephone or other telecommunication contact with the individual providing supervision  
9 and/or collaboration as required by the Board during each work day. The individual providing  
10 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
11 patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
13 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
14 or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
16 registered nursing supervision and other protections for home visits have been approved by the  
17 Board. Respondent shall not work in any other registered nursing occupation where home visits  
18 are required.

19 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
20 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
21 and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing or as an  
23 instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined  
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
27 request documentation to determine whether there should be restrictions on the hours of work.

28 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and



1 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
2 months prior to the end of his probationary term.

3 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
4 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
5 above required course(s). The Board shall return the original documents to Respondent after  
6 photocopying them for its records.

7 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its  
8 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
9 amount of \$9,547.45. Respondent shall be permitted to pay these costs in a payment plan  
10 approved by the Board, with payments to be completed no later than three months prior to the end  
11 of the probation term.

12 If Respondent has not complied with this condition during the probationary term, and  
13 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
14 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
15 extension of Respondent's probation period up to one year without further hearing in order to  
16 comply with this condition. During the one year extension, all original conditions of probation  
17 will apply.

18 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the  
19 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
20 and impose the stayed discipline (revocation/suspension) of Respondent's license.

21 If during the period of probation, an accusation or petition to revoke probation has been  
22 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
23 an accusation or petition to revoke probation against Respondent's license, the probationary  
24 period shall automatically be extended and shall not expire until the accusation or petition has  
25 been acted upon by the Board.

26 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing  
27 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
28 Respondent may surrender his license to the Board. The Board reserves the right to evaluate

Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

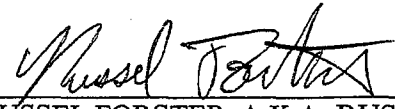
(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

#### ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kathleen McCormac. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 6/21/12

  
RUSSEL FORSTER, A.K.A. RUSSEL FREDERICK  
FORSTER  
Respondent

I have read and fully discussed with Respondent Russel Forster, a.k.a. Russel Frederick Forster the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/25/12

  
Kathleen McCormac  
Attorney for Respondent

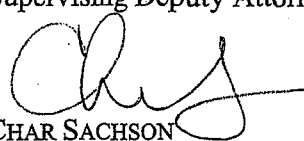
1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
4 Affairs.

5 Dated: 7/16/12

6 Respectfully submitted,

7 KAMALA D. HARRIS  
8 Attorney General of California  
9 FRANK H. PACOE  
10 Supervising Deputy Attorney General

11   
12 CHAR SACHSON  
13 Deputy Attorney General  
14 *Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-673**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 CHAR SACHSON  
Deputy Attorney General  
4 State Bar No. 161032  
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5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5558  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-673**

12 **RUSSEL FORSTER, A.K.A. RUSSEL**  
13 **FREDRICK FORSTER**  
14 **1832 Eddy Street**  
**San Francisco CA 94115**

**ACCUSATION**

15 **Registered Nurse License No. 708351**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

21 2. On or about July 23, 2007, the Board of Registered Nursing issued Registered Nurse  
22 License Number 708351 to Russel Forster, a.k.a. Russel Fredrick Forster (Respondent). The  
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on February 28, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board) under the  
27 authority of the following laws. All section references are to the Business and Professions Code  
28

1 unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an  
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
11 functions.

12 ..."

13 6. Section 2762 of the Code states:

14 "In addition to other acts constituting unprofessional conduct within the meaning of this  
15 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
16 chapter to do any of the following:

17 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
18 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
19 administer to another, any controlled substance as defined in Division 10 (commencing with  
20 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
21 defined in Section 4022.

22 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
23 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
24 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
25 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
26 ability to conduct with safety to the public the practice authorized by his or her license.

27 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
28 self-administration of any of the substances described in subdivisions (a) and (b) of this section,

1 or the possession of, or falsification of a record pertaining to, the substances described in  
2 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
3 thereof.

4 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of  
5 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this  
6 section, in which event the court order of commitment or confinement is prima facie evidence of  
7 such commitment or confinement.

8 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
9 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
10 section."

11 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
13 licensee or to render a decision imposing discipline on the license.

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case.

#### 18 DRUGS

19 9. Morphine is a Schedule II controlled substance as designated by Health and Safety  
20 Code section 11055(b)(1)(M), and a dangerous drug as designated by Code section 4022. It is  
21 used to treat moderate to severe pain.

#### 22 FIRST CAUSE FOR DISCIPLINE

#### 23 (ILLEGALLY OBTAIN OR POSSESS CONTROLLED SUBSTANCES)

24 10. Respondent is subject to disciplinary action under Code section 2762(a), in that while  
25 on duty as a registered nurse at Seton Medical Center in Daly City, California, Respondent  
26 illegally obtained and/or possessed controlled substances as follows:  
27  
28

1 a. Patient 1: On February 5, 2009 at 16:24, Respondent removed 4 mg of morphine  
2 from the hospital Pyxis<sup>1</sup>. Respondent documented having administered 4 mg of morphine at  
3 16:30 in the patient's Medical Administration Record (MAR). However, the patient did not have  
4 an order for morphine.

5 b. Patient 2: On February 5, 2009 at 11:19, Respondent removed 4 mg of Morphine  
6 from the hospital Pyxis. At 14:37 Respondent removed 4 mg of morphine from the hospital  
7 Pyxis, and at 15:33 Respondent removed 2 mg of morphine from the hospital Pyxis. Respondent  
8 documented administration of 4 mg of morphine on the patient's MAR at 11:00, and 4 mg of  
9 morphine at 14:30. Respondent failed to document administration or wastage of the morphine that  
10 was withdrawn at 15:33, or account for its disposition.

11 c. Patient 3: On January 27, 2009 at 14:51, Respondent removed 4 mg of Morphine  
12 from the hospital Pyxis. Respondent documented administration of 2 mg of the morphine in the  
13 patient's MAR at 15:00, and documented administration of the other 2 mg of morphine in the  
14 patient's MAR at 17:30. During the time frame from 15:00 to 17:30, Respondent failed to account  
15 for 2 mg of the morphine.

#### 16 SECOND CAUSE FOR DISCIPLINE

17 (FALSIFY, OR MAKE GROSSLY INCORRECT, GROSSLY INCONSISTENT, OR  
18 UNINTELLIGIBLE ENTRIES IN ANY PATIENT RECORD)

19 11. Respondent is subject to disciplinary action under Code section 2762(e), in that while  
20 on duty as a registered nurse at Seton Medical Center in Daly City, California, Respondent  
21 falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and  
22 patient records, as alleged above in paragraphs 10.a. through 10.c.

#### 23 THIRD CAUSE FOR DISCIPLINE

24 (GROSS NEGLIGENCE)

25 12. Respondent is subject to disciplinary action under Code section 2761(a)(1) in that he  
26 was grossly negligent as alleged in paragraphs 10.a. through 10.c. and 11. above.

27  
28 <sup>1</sup> Pyxis is a hospital computerized medication storage system.



FOURTH CAUSE FOR DISCIPLINE  
(UNPROFESSIONAL CONDUCT)

13. Respondent is subject to disciplinary action under section 2761(a) in that he acted unprofessionally as alleged above in paragraphs 10.a. through 10.c., and 11. above.

PRAYER

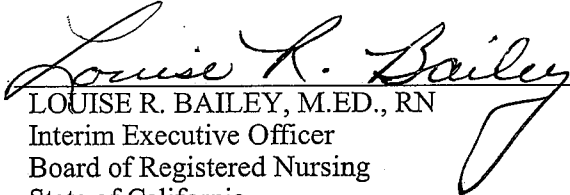
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 708351, issued to Russel Forster, a.k.a. Russel Fredrick Forster;

2. Ordering Russel Forster to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: May 1, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

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